

ETHICS BOARD REC'D
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February 2, 2021

Via Overnight Delivery

LOUISIANA ETHICS ADMINISTRATION PROGRAM

P.O. Box 4368

Baton Rouge, Louisiana 70821

RE: Request for an Advisory Opinion.

Dear Members of the Board of Ethics:

I am writing on behalf of my client, Zachary R. Smith, who has been employed by the City of New Orleans in various roles over the past several years. More specifically, Mr. Smith previously worked in the Department of Safety and Permits as the Chief Building Official until April 2, 2019. Mr. Smith then became the Director of the Department of Safety and Permits on June 17, 2018, and he served in that role until March 2, 2020 at which time he became the Acting Chief of Staff to the Deputy Chief Administrative Officer ("CAO"). Mr. Smith still currently serves as Acting Chief of Staff to the Deputy CAO.

During his tenure as the Chief Building Official, Mr. Smith oversaw and supervised building inspectors for the City of New Orleans, including doing plan review work. During his tenure as the Director of the Department of Safety and Permits, Mr. Smith's role was expanded, and he oversaw the entire permitting department. In his current role, Mr. Smith has no ultimate decision-making authority and his role is primarily an administrative role as to the internal working staff. Mr. Smith still maintains some oversight of building inspectors in his current role.

We would like to clarify a few issues related to Mr. Smith's ability to perform certain work upon his resignation from the City of New Orleans. Mr. Smith is a licensed architect, and upon his upcoming resignation from the City of New Orleans, Mr. Smith intends to work in the construction and architectural industries to providing architectural consulting, advising, building code expertise, and design-build consulting services ("Services").

1. Please advise on what his "agency" is as defined by La. R.S. 42:1102(2)(a)(vi)? The statute states: "For public servants of political subdivisions, it shall mean the agency in which the public servant serves. . . ."

(a) Did Mr. Smith have different "agencies" at different times and to which the two-year time period referenced in La. R.S. 42:1121 would apply?

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(b) Under La. Rev. Stat. 42:1121(A)(1), is Mr. Smith allowed to perform the Services (as defined herein) under a contract with an entity that seeks to obtain permits from the City of New Orleans?

2. La. R.S. 42:1121(A)(1) provides:

No former agency head or elected official shall, for a period of two years following the termination of his public service as the head of such agency or as an elected public official serving in such agency, assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction, involving that agency or render any service on a contractual basis to or for such agency.

(a) Based upon La. R.S. 42:1121(A)(1), is there any prohibition against Mr. Smith participating in any transaction or appearance before any City departments to seek any type of permits on behalf of any company or individual that he may work for in the future?

(b) Please clarify what "assist" means in La. R.S. 1121. More specifically, would there be any prohibition against Mr. Smith advising potential private clients on matters that may be presented to the City for permitting or plan review if Mr. Smith is not the applicant on any permit applications submitted to the City?

3. La. R.S. 42:1121(B)(1) provides:

No former public employee shall, for a period of two years following the termination of his public employment, assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction in which such former public employee participated at any time during his public employment and involving the governmental entity by which he was formerly employed, or for a period of two years following termination of his public employment, render, any service which such former public employee had rendered to the agency during the term of his public employment on a contractual basis, regardless of the parties to the contract, to, for, or on behalf of the agency with which he was formerly employed.

Based upon La. R.S. 42:1121(B)(1), please clarify any prohibitions that Mr. Smith might have with regard to any permitting applications that were submitted to the City during Mr. Smith's tenure?

(a) Is Mr. Smith prohibited from participating in transactions involving a project when a permit application for the project was submitted to the City while Mr. Smith was employed but Mr. Smith had no role in reviewing or issuing the permit?

4. La. R.S. 42:1121(C) provides:

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No legal entity in which a former public servant is an officer, director, trustee, partner, or employee shall, for a period of two years following the termination of his public service, assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction in which such public servant at any time participated during his public service and involving the agency by which he was formerly employed or in which he formerly held office.

Based upon La. R.S. 42:1121(C), is there any prohibition against any entity of which Mr. Smith has an ownership interest seeking permits or engaging in any transactions with the City?

(a) Do the prohibitions set forth in La. R.S. 42:1112(B)(2)-(3) apply after Mr. Smith resigns from his employment with the City?

Thank you in advance for providing guidance on these issues.

Best regards,

A handwritten signature in black ink, appearing to read "Sharonda R. Williams", with a long horizontal flourish extending to the right.

Sharonda R. Williams

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